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Chapter: 9

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Public Hospital District*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

Case No. 17-02025-9

Kennewick Public Hospital District,
Debtor.

**DEBTOR'S MOTION FOR ORDER
(A) DIRECTING AND
APPROVING FORM OF NOTICE,
(B) SETTING DEADLINE FOR
FILING OBJECTIONS TO
PETITION, (C) SETTING
DEADLINE FOR FILING LIST OF
CREDITORS, AND (D) SETTING
DEADLINE FOR FILING PROOFS
OF CLAIM**

Kennewick Public Hospital District, a Washington public hospital district (d/b/a Trios Health) (the “District” or “Trios”) and the debtor in the above-captioned case (the “Chapter 9 Case”) files this motion (the “Motion”) for entry of an order (the “Order”) (a) approving form of notice, (b) setting a deadline for filing objections to the Petition (as defined herein), (c) setting a deadline for filing the

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1 District's list of creditors, and (d) setting a deadline for filings proofs of claim. In
2 support of this Motion, the District submits the contemporaneously filed
3 Declaration of Craig Cudworth in Support of First Day Pleadings (the "Cudworth
4 Declaration").¹ In further support of this Motion, the District respectfully states as
5 follows:

6 **I. JURISDICTION**

7 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and
8 1334. This matter is a core proceeding within the meaning of 28 U.S.C.
9 § 157(b)(2). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
10 The statutory bases for the relief requested herein are sections 921, 923, and 924 of
11 title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the
12 "Bankruptcy Code"), rules 1007, 2002(m), 3003(c)(3), 9007, and 9008 of the
13 Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rule 1007-2
14 of the Local Rules of the United States Bankruptcy Court for the Eastern District
15 of Washington (the "Local Rules" or "LBR").

16 **II. BACKGROUND**

17 On June 30, 2017 (the "Petition Date"), the District filed a voluntary petition
18 for relief under chapter 9 of the Bankruptcy Code (the "Petition"). No statutory
19 committee of unsecured creditors has been appointed in this Chapter 9 Case.

20

21 ¹ Capitalized terms used but not otherwise defined in this Motion have the same
22 meanings as ascribed in the Cudworth Declaration.

1 Additional information regarding the District's businesses, assets, capital
2 structure, and the circumstances leading to the filing of this Chapter 9 Case is set
3 forth in the Cudworth Declaration.

4

III. RELIEF REQUESTED

5 By this Motion, the District respectfully requests entry of the Order,
6 pursuant to sections 921, 923, and 924 of the Bankruptcy Code, rules 1007,
7 2002(m), 3003(c)(3), 9007, and 9008 of the Bankruptcy Rules, and rule 1007-2 of
8 the Local Rules, (a) directing and approving form of notice, (b) setting a deadline
9 for filing objections to the Petition, (c) setting a deadline for filing the District's list
10 of creditors, and (d) setting a deadline for filings proofs of claim.

11

IV. BASIS FOR RELIEF

12

A. Proposed Form, Service, and Publication of Notice of Commencement 13 Satisfies Requirements of Section 923 of the Bankruptcy Code

14 Section 923 of the Bankruptcy Code states

15 There shall be given notice of the commencement of a
16 case under this chapter, notice of an order for relief under
17 this chapter, and notice of the dismissal of a case under
18 this chapter. Such notice shall also be published at least
19 once a week for three successive weeks in at least one
newspaper of general circulation published within the
district in which the case is commenced, and in such
other newspaper having a general circulation among
bond dealers and bondholders as the court designates.

20 11 U.S.C. § 923.

21 The requirement to publish notice for (3) three successive weeks "is
22 intended to comply with the requirements of due process." 6 COLLIER ON

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1 BANKRUPTCY ¶ 923.03 (Alan N. Resnick & Henry J. Sommer eds., 16th ed. 2010);
2 see also *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)
3 (“An elementary and fundamental requirement of due process in any proceeding
4 which is to be accorded finality is notice reasonably calculated, under all the
5 circumstances, to apprise interested parties of the pendency of the action and afford
6 them an opportunity to present their objections.”).

7 The Bankruptcy Rules further provide for the Court’s designation of the
8 form, manner, and time of notice. Bankruptcy Rule 2002(m) states “[t]he court
9 may from time to time enter orders designating the matters in respect to which, the
10 entity to whom, and the form and manner in which notices shall be sent except as
11 otherwise provided by these rules.” Fed. R. Bankr. P. 2002(m). Bankruptcy Rule
12 9007 further provides:

13 When notice is to be given under these rules, the court
14 shall designate, if not otherwise specified herein, the time
15 within which, the entities to whom, and the form and
16 manner in which the notice shall be given. When
17 feasible, the court may order any notices under these
18 rules to be combined.

19 Fed. R. Bankr. P. 9007.

20 A proposed form of notice (the “Notice”) is attached hereto as Exhibit A. As
21 required by Bankruptcy Code section 923, the Notice apprises interested parties of
22 the commencement of the Chapter 9 Case. The Notice also includes notice of the
automatic stay, and of deadlines for objecting to the Petition and for filing proofs
of claim, and filing of the District’s List of Creditors (as defined below), as

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1 described below. Further, the Notice alerts interested parties that, if no objection is
2 timely filed, the filing of the Petition will be deemed an order for relief under
3 Chapter 9, and the Notice will be deemed notice of such order for relief. The
4 District respectfully submits this Notice satisfies the requirements of section 923 of
5 the Bankruptcy Code with respect to notice of commencement of a case under
6 Chapter 9 and notice of an order for relief. Accordingly, the District seeks the
7 Court's approval of the Notice pursuant to Bankruptcy Rules 2002(m) and 9007.

8 Contemporaneously with this Motion, the District has filed a motion
9 requesting the appointment of Garden City Group, LLC as claims and noticing
10 agent ("GCG" or the "Notice Agent") for the Chapter 9 Case. Pursuant to
11 Bankruptcy Rules 2002(m) and 9007, the District requests the Court direct the
12 Notice Agent to serve a copy of the Notice on the matrix of creditors filed by the
13 District pursuant to Local Rule 1007-2(a) (together with any current and former
14 patients identified on any confidential list maintained separately pursuant to any
15 order of the Court, the "Creditor Matrix") within three (3) business days after entry
16 of the Court's Order approving the Notice.

17 Section 923 of the Bankruptcy Code also requires publication of the notice
18 "in at least one newspaper of general circulation published within the district in
19 which the case is commenced, and in such other newspaper having a general
20 circulation among bond dealers and bondholders as the court designates."

21 11 U.S.C. § 923. Bankruptcy Rule 9008 states that:

22 "Whenever these rules require or authorize service or
notice by publication, the court shall, to the extent not

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otherwise specified in these rules, determine the form and manner thereof, including the newspaper or other medium to be used and the number of publications."

Fed. R. Bankr. P. 9008.

The District believes that the *Tri-City Herald* is a newspaper of general circulation within the Eastern District of Washington and the region in which the District, specifically, is situated. The District further believes that *The Bond Buyer* has a general circulation among bond dealers and bondholders. The District proposes to publish the Notice (a) in the *Tri-City Herald* once a week for three (3) consecutive weeks and (b) once in *The Bond Buyer*, which will also post the Notice for thirty (30) days on its website at <http://www.bondbuyer.com>, starting within five (5) business days after the entry of this Order or as soon as practicable thereafter. In addition, the District intends to post the Notice on the Electronic Municipal Market Access Database at www.emma.msrb.com, which will provide further notice to bondholders.

The District respectfully submits that publication and mailing of the Notice in the manner described above serves the purpose of section 923 of the Bankruptcy Code and will provide sufficient notice to all parties in interest in the Chapter 9 Case.

B. Deadline for Filing Objections to the Petition

Section 921 of the Bankruptcy Code states in relevant part:

(c) After any objection to the petition, the court, after notice and a hearing, may dismiss the petition if the debtor did not file the petition in good faith or if the petition does not meet the requirements of this title.

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1
2 (d) If the petition is not dismissed under subsection (c)
3 of this section, the court shall order relief under this
4 chapter notwithstanding section 301(b).

5 11 U.S.C. § 921.

6 Section 921(d) of the Bankruptcy Code requires the entry of an order for
7 relief in a chapter 9 case only if the Petition is not dismissed under Section 921(c).
8 Under section 921(c), an objection to the Petition must be filed before the Court
9 may consider dismissal of the Petition. In order to expedite the entry of an order
10 for relief in this Chapter 9 Case (the “Order of Relief”), the District requests that
11 the deadline for filing objections to the Petition be established as July 28, 2017 (the
12 “Eligibility Objection Deadline”), a date that is twenty-eight (28) days after the
13 Petition Date.

14 The Notice provides notice of the deadline for filing objections to the
15 Petition and provides that if no objection to the Petition is timely filed, the Notice
16 will be deemed notice of the Order for Relief. The District respectfully requests
17 that this Court approve this provision of the Notice.

18 **C. Deadline for Filing List of Creditors**

19 Section 924 of the Bankruptcy Code states that “[t]he debtor shall file a list
20 of creditors.” 11 U.S.C. § 924. Bankruptcy Rule 1007(a) also requires the District
21 file a list of creditors: “In a voluntary case, the debtor shall file with the petition a
22 list containing the name and address of each entity included or to be included on
Schedules D, E/F, G, and H as prescribed by the Official Forms.” Fed. R. Bankr. P.

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1 1007(a)(1). Bankruptcy Rule 1007(e) provides in relevant part that “[t]he list
2 required by subdivision (a) of this rule shall be filed by the debtor in a chapter 9
3 municipality case within such time as the court shall fix.” Fed. R. Bankr. P.
4 1007(e). Under section 925 of the Bankruptcy Code, “[a] proof of claim is deemed
5 filed under section 501 of this title for any claim that appears in the list filed under
6 section 924 of this title, except a claim that is listed as disputed, contingent, or
7 unliquidated.” 11 U.S.C. § 925.

8 The District and its counsel are actively engaged in reviewing and analyzing
9 the District’s liabilities and expect to complete that process on or before July 21,
10 2017. The District respectfully requests that this Court set the deadline for filing
11 its list of creditors pursuant to section 924 of the Bankruptcy Code (the “List of
12 Creditors”) as July 21, 2017.

13 **D. Deadline for Filing Proofs of Claim**

14 Bankruptcy Rule 3003(c)(3) states

15 The court shall fix and for cause shown may extend the
16 time within which proofs of claim or interest may be
17 filed. Notwithstanding the expiration of such time, a
18 proof of claim may be filed to the extent and under the
19 conditions stated in Rule 3002(c)(2), (c)(3), (c)(4), and
(c)(6).

20 Fed. R. Bankr. P. 3003(c)(3).

21 The District respectfully requests that this Court set the 90th day following
22 entry of an order approving this Motion as the deadline for filing proofs of claim
against the District; provided, however, that solely as to governmental units (as that

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1 term is defined in section 101(27) of the Bankruptcy Code) the District requests
2 that the Court fix the 180th day following entry of an order approving this Motion
3 as the deadline for governmental units to file proofs of claim.

4

V. NOTICE

5 Contemporaneously with the filing of this Motion, the District has filed a
6 motion (the “Initial Hearing Motion”) requesting entry of an order (a) shortening
7 time to object, (b) scheduling hearing regarding the District’s initial motions,
8 including this Motion, and (c) limiting notice thereof. Following entry of the
9 Court’s order on the Initial Hearing Motion, and as directed by that order, the
10 District will serve a notice and copy of this Motion.

11

VI. NO PREVIOUS REQUEST

12 No prior motion for the relief requested herein has been made by the District
13 to this or any other court.

14 [Remainder of page intentionally left blank.]

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WHEREFORE, the District respectfully requests that this Court (a) enter the Order, substantially in the form attached to this Motion as Exhibit A, (i) approving the Notice substantially in the form attached thereto as Schedule 1, (ii) approving the manner of notice by mail and publication set forth in this Motion (iii) setting a deadline for filing objections to the Petition (iv) setting a deadline for filing the District's list of creditors, and (v) setting a deadline for filings proofs of claim, and (b) granting such other and further relief as the Court may deem just and proper.

DATED this 30th day of June, 2017.

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By: /s/ Jack Cullen
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